



ATCP 50

Farmland Preservation Program (FPP)

Conservation Compliance Requirements

ARM Pub 243, 04/14

The Wisconsin Farmland Preservation Program (FPP) provides income tax credits to Wisconsin farmers in exchange for keeping land in agricultural use and maintaining compliance with soil and water conservation requirements (see page 2). This document presents a summary of the soil and water conservation and FPP requirements in ATCP 50, as well as additional information to help landowners.

COUNTY RESPONSIBILITIES

ATCP 50 requires county land conservation committees (LCCs), or their designee, to monitor conservation compliance on the entire farm under a FPP participant's common ownership and maintain adequate documentation of county monitoring efforts. An example of un-common ownership could be one parcel owned by John Jones; a second by his brother Roger Jones; and a third owned by both brothers under the Jones Brothers LLC. These three parcels would be considered separate farms for the purpose of meeting the soil and water conservation standards. At least once every four years, counties shall conduct a farm inspection that includes:

- A site visit or other reliable assessment method to determine whether or not the farm has significant discharges.
- A review of the owner's records to verify use of a nutrient management plan in compliance with current standards.

A county may ask landowners to certify on a form that they are complying with conservation standards or have agreed to follow a performance schedule. Although not required, counties may offer cost-sharing and technical assistance to assist landowners in achieving compliance.

MONITORING LANDOWNER COMPLIANCE

Compliance – If the entire farm owned by the landowner meets applicable soil and water conservation standards, the county land conservation committee shall issue a **Certificate of Compliance** on a DATCP-approved form. A *Certificate of Compliance* may be amended or modified to reflect changes in a landowner's status. If a landowner acquires new cropland or pasture, the landowner may remain in compliance by updating the farm's nutrient management plan within one year to cover the new land. A *Certificate of Compliance* remains valid until the county issues a *Notice of Noncompliance*.

Performance Schedule – A landowner may be considered in compliance with applicable conservation standards if the landowner enters into and implements a performance schedule. The land conservation committee may develop a written agreement with a landowner that includes all of the farm conservation practices needed to achieve full compliance with the soil and water conservation standards. The agreement should include dates agreed to by the landowner and the county for installation of the agreed-to practices. A performance schedule may provide landowners up to five years to achieve compliance with conservation standards. The five year period is measured from the time a landowner is informed of his or her compliance obligations. While a performance schedule may establish a landowner's compliance, a landowner may not meet other program requirements necessary to receive tax credits. These other program requirements may include residency, minimum farm income, and continuity of claiming farmland preservation program tax credits.

Noncompliance – A *Notice of Noncompliance (NON)* will be issued by the land conservation committee if the landowner fails to: 1. Comply with standards 2. Follow a performance schedule 3. Permit a reasonable inspection 4. Self-certify compliance in response to a LCC request.

When considering issuing a *NON*, counties should exercise reasonable judgment and consider things such as extenuating circumstances, seriousness of the noncompliance issue, likelihood of correction, and level of landowner cooperation. A county LCC may, at any time, withdraw a notice of noncompliance on a form approved by DATCP. If a landowner falls out of compliance with one or more of the soil and water conservation standards; voluntarily chooses not to participate in FPP and waives the right to a hearing and farm inspection; fails to make progress towards compliance through a performance schedule; or is determined not to have land eligible for the tax credits; the county LCC will issue the landowner a *NON*. In addition, the county land conservation committee will provide a copy of the *Notice of Noncompliance* to the landowner, the WI Department of Revenue, DATCP, and the local zoning authority.

REQUIRED STATE SOIL & WATER CONSERVATION STANDARDS FOR FPP PARTICIPANTS

FPP participants continuously claiming tax credits are not required to implement the *italicized* standards until after January 1, 2016.

- Calculate and follow the Phosphorus Index where it applies on cropland, pasture and winter grazing areas
- Maintain a minimum 5 foot tillage setback from surface water bodies
- Prevent significant discharge of process wastewater (e.g. feed leachate, milkhouse waste) to waters of the state
- Meet tolerable soil loss (T) on cropped and pastured fields
- Follow a 590 Nutrient Management Plan on cropland and pastures
 - Fields must have initial soil tests conducted by 2016 and follow crop management practices that are planned to comply with the 590 standard across the crop rotation.
- Limit livestock access along waters to maintain vegetative cover
- Maintain manure storage structures to prevent leaking and overflow
- Follow manure storage technical standards for construction and abandonment
- Prevent direct runoff from feedlots or stored manure to waters of the state
- Near surface water or areas susceptible to groundwater contamination do not stack manure in an unconfined pile and divert clean water away from feedlots, manure storage, and barnyards
 - Livestock operators must prevent a “significant” discharge from manure and feed storage, feedlots, and process wastewater. Consider low cost options for removing “significant” direct feedlot runoff such as: 1. Grazing cattle on nearby fields. 2. Collecting lot manure on a consistent basis and field applying in accordance with a nutrient management plan. 3. Removing channels with roof gutters, clean water diversions, or rock spreader diversions with harvested vegetative runoff filters.

FARMLAND PRESERVATION TAX CREDIT

The farmland preservation tax credit is available to eligible Wisconsin farmers who own land located in farmland preservation zoning districts or covered by a farmland preservation agreement. In 2012, nearly \$19 million in FPP tax credits were distributed to approximately 15,200 WI claimants covering approximately 2.8 million acres of farmland.

Ch. 91 of Wisconsin statutes sets rules for the farmland preservation program and related tax credits, while ATCP 50 identifies the conservation standards that must be met and the system by which compliance is determined. Because compliance with conservation standards is required to claim the tax credit, it is important to understand participation status and tax schedules available for filing an income tax return.

Claimants typically fall into one of the following categories:

Continuous Participants: Farmers who claimed FPP credits from tax year 2009 forward and are in farmland preservation zoning districts, must use Schedule FC-A and certify to the Department of Revenue that they are in compliance each year they claim a credit. Or, the county can issue claimants a *Performance Schedule* to meet state conservation standards. Counties must issue a *Certificate of Compliance* when a landowner’s farm is deemed compliant with all required soil and water conservation standards.

New Participants: New participants need a *Certificate of Compliance* attached to Schedule FC-A tax form if they intend to claim tax credits. New participants include farmers that: 1. Are in a farmland preservation zoning district who did not claim the FPP tax credit in the prior tax year, or 2. Have a new (2010 or newer) farmland preservation agreement in a designated Agricultural Enterprise Area, or 3. Have a modified farmland preservation agreement that was signed prior to 2010.

Existing Agreement Participants: Farmers with an unmodified farmland preservation agreement entered into prior to July 1, 2009 are the only claimants that use Schedule FC until the agreement expires. They must comply with conservation compliance standards included in their agreement and cannot be compelled to comply with any new standards. When a farmer claims a credit they must attach a copy of the agreement and certify compliance to the Department of Revenue.

Modified Agreement Participants: Farmers with an unmodified farmland preservation agreement entered into prior to July 1, 2009 may contact their county conservation office to modify their existing farmland preservation agreement to enable them to claim the higher tax credit of \$5 per acre. Claimants with modified agreements must use Schedule FC-A. Acres under the modified agreement must be in compliance with conservation standards incorporated into ATCP 50 at the time the agreement is modified.